

REMARKS

Claims 1-8, 10-22 and 24-28 are pending in this application. The Examiner has withdrawn claims 9 and 23 from consideration as being directed to a non-elected species of the present invention. Claims 5, 7, 10, 18, 19, 21 and 24 have been amended; no new matter has been introduced.

In the Office Action, the Examiner objected to dependent claims 5-8, 10-14, 18-22 and 24-28 as being dependent upon a rejected base claim, but indicated that these claims would be allowable if rewritten in independent form. Applicants have rewritten claims 5, 7, 10, 18, 19, 21 and 24 in appropriate independent form as suggested by the Examiner. Notice to the effect that these claims, as well as claims 6, 8, 11-14, 20, 22 and 25-28 which variously depend therefrom, are in form for immediate allowance is respectfully requested.

Independent claims 1 and 15 and dependent claims 2-4, 16 and 17 stand rejected under 35 U.S.C. §102(e) as being anticipated by Lee U.S. Patent No. 6,948,721. The Examiner contends that Lee discloses all of the features recited in the rejected claims.

As a preliminary matter, Applicants respectfully reserve the right to file a declaration under 37 CFR §1.131 to remove Lee as a prior art reference against the present application. Applicants believe that they can establish (i) reduction to practice of the present invention before the December 13, 2002 effective date of the reference, or (ii) conception of the present invention before the effective date of the reference coupled with due diligence from prior to the effective date to a subsequent reduction to practice or to the January 29, 2003 effective filing date of the present patent application.

Notwithstanding this reservation, Applicants respectfully traverse the foregoing claim rejections for the reasons set forth hereinafter. Lee does not disclose or yield the present claimed invention -- differences exist between the method and system claimed in the present application and the Lee variable leveling valve apparatus that warrant the withdrawal of the claim rejections on anticipation grounds.

As set forth in detail in the present patent application, Applicants' invention is directed to embodiments of a new vehicle air-suspension system, especially an air-suspension system designed as a partly closed system, and a method for operating the system. The air-suspension system includes at least one compressed-air delivery device, a plurality of air-suspension bellows and valves constructed and arranged for controlling the filling of one, several or all air-suspension bellows with compressed air discharged by the compressed-air delivery device. It should be appreciated that the method and system according to the present invention avoid an undesirably large pressure rise on the pressure-outlet side of the compressed-air delivery device, as the effective delivery capacity of the compressed-air delivery device is automatically controlled as a function of the state defined by the arrangement of the valves.

The Lee patent cited by the Examiner in the Office Action describes embodiments of a variable leveling valve apparatus for a vehicle. The Lee apparatus controls the flow amount of compressed air per unit hour into and out of air springs through a leveling valve. The flow depends on the degree of change in the level position of the moving vehicle. According to Lee, an optimal turning stability is achieved by variably controlling the time needed for the vehicle body to restore its status. The time for restoration depends on the degree of rolling of the vehicle.

The leveling valve apparatus described in Lee includes a housing defining an inlet and an outlet connected by a flow path through which compressed air flows into and out of the housing. A connecting path defined by the housing and branched from the flow path connects left and right air springs. A flow amount control (including fixing plates with holes for passing compressed air, valve members which interact with the fixing plates, auxiliary return springs and means for varying communication between the flow path and the connecting path) deployed at the flow path controls the amount of compressed air per unit hour flowing into and out of the flow path. A linearly moveable (by means of a rotor) plunger housed in the flow path operates the flow amount control. A lever coupled to the rotor rotatably moves the rotor in response to a change in distance between a vehicle axle and the vehicle body.

Lee, which is directed to a discrete functional element of a vehicle air-suspension system -- a variable leveling valve, nowhere describes, teaches or suggests the construction, arrangement or process claimed in independent claims 1 and 15 of the present application which involves providing feedback to the compressed-air delivery device depending on the state of the valve arrangement in order to control its effective delivery capacity. That is, in stark contrast to Lee, the present invention as claimed in independent claims 1 and 15 embodies a new air-suspension system, and does not utilize a variable leveling valve of the type described in Lee -- rather, the present claimed invention employs a series of valves for filling the air-suspension bellows, which valves define multiple states; and the effective delivery capacity of the compressed-air delivery device is automatically controlled as a function of the state defined by the valve arrangement by means of a program expansion of the ECU.

Accordingly, independent claims 1 and 15 of the present application recite features, process steps and structure nowhere found in Lee, and, thus, Lee cannot anticipate claims 1 and 15.

The Federal Circuit has instructed that anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *See W.L. Gore & Assocs. v. Garlock, Inc.*, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 841 (1984); *see also Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) (requiring that the prior art reference disclose each element of the claimed invention arranged as in the claim). Considering that the method and system of the present invention as claimed in independent claims 1 and 15 differs structurally and functionally from the apparatus disclosed in Lee, as discussed above, it is respectfully submitted that independent claims 1 and 15 are not anticipated by and are patentable over Lee. Notice to this effect is earnestly solicited.

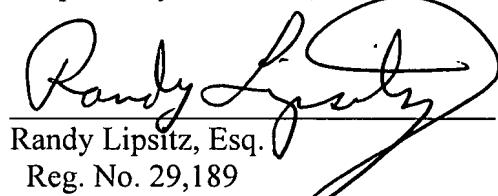
It is also submitted that claims 2-4, 16 and 17, which variously depend from independent claims 1 and 15, are allowable for the same reasons (articulated above) that claims 1 and 15 are allowable, as well as for the additional steps, features and structure recited therein. Notice to this effect is respectfully requested.

On the basis of the foregoing amendments and remarks, Applicants respectfully submit that this application is in condition for immediate allowance. Notice to this effect is earnestly solicited.

The Examiner is invited to contact Applicants' undersigned attorneys at the telephone number set forth below if it will advance the prosecution of this case.

Please charge Deposit Account No. 50-0540 in the amount of \$120.00 to cover the fee associated with the Petition for a One-Month Extension of Time submitted herewith (as also authorized in the Petition itself), and \$1,200.00 to cover the fees associated with rewriting seven dependent claims in independent form to yield six independent claims in excess of the three initially allotted. Also, authorization is hereby given to charge any fee deficiency to Deposit Account No. 50-0540. A duplicate copy of this authorization page is attached.

Respectfully submitted,


Randy Lipsitz, Esq.
Reg. No. 29,189
Richard L. Moss, Esq.
Reg. No. 39,782
Leslie K. Nguyen, Esq.
Reg. No. 49,081
Attorneys for Applicants
KRAMER LEVIN NAFTALIS & FRANKEL LLP
1177 Avenue of the Americas
New York, New York 10036
(212) 715-9100